

DEC 13 2004

60,130-1885; 02MRA0391

UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Weber
Serial No.: 10/701,997
Filed: 11/5/2003
Examiner: Schwartz, Christopher P.
Art Unit: 3683
Title: Temperature Control System for Air/Oil Shock
Absorber Module

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION

Dear Sir:

Reconsideration of the final rejection of October 12, 2004 is requested. The examiner argues that since claim 1 simply requires "a control for avoiding an undesirably high temperature within the air volume by replacing hotter air with cooler air, there is only a statement of intended use." The examiner also argues that applicant has made no effort to amend claim 1 to define around the prior art.


Applicant did not need to amend claim 1, as it already defined around the prior art. The "control" limitation of claim 1 is far more than a "statement of intended use." The claim specifically requires that the control perform the function of "replacing hotter air with cooler air." The claim limitation is fairly interpreted to be a step of "replacing" within the air volume. Certainly, claim 2, and claims 3 and 4 which depend to claim 2, make clear that it is the air volume in which the "replacing" is occurring. Simply, and for the reasons set forth previously, the rejection is improper.

*Embry
Approved
1/7/05*

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Applicant's next step is to appeal this rejection. Applicant does not believe this rejection would survive an appeal conference, and given the increase in appeal filing fees, applicant would ask this case be passed to issue now, rather than after the necessity of preparing and filing an appeal brief. Such action is solicited.

Respectfully submitted,

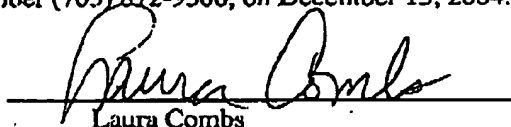


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CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States patent and Trademark Office, fax number (703) 872-9306, on December 13, 2004.


Laura Combs